

STATE OF IOWA

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DEPARTMENT OF EDUCATION
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TO: AEA Directors of Special Education

LEA Superintendents

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FR: Thomas A. Mayes

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DA: September 5, 2006

RE: Definition of "Parent" Under IDEA Part B and Early ACCESS

In the 2004 IDEA Amendments, Congress significantly changed the definition of "parent." The 2006 IDEA Part B regulations gave additional operational clarity to the definition of "parent." Although OSEP has not released Part C regulations, the definition of "parent" contained in the current Part C regulations conflicts with the definition in the 2004 IDEA amendments.

The definition of "parent" in Iowa's special education and Early ACCESS rules will need to be amended to align with federal law. Until those amendments are completed, AEAs and LEAs must use the federal definition of "parent." The definitions of "parent" in Iowa's special education and Early ACCESS rules, as well as the definition in the federal Part C regulations, are no longer controlling and should no longer be used.

For your convenience, I have attached the definition of "parent" from the 2004 IDEA amendments and the 2006 Part B regulations.

2004 AMENDMENTS: 20 U.S.C. § 1401(23)

(23) Parent.--The term `parent' means--

- (A) a natural, adoptive, or foster parent of a child (unless a foster parent is prohibited by State law from serving as a parent);
 - (B) a guardian (but not the State if the child is a ward of the State);
- (C) an individual acting in the place of a natural or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or
- (D) except as used in sections 615(b)(2) and 639(a)(5), an individual assigned under either of those sections to be a surrogate parent.

PART B REGULATIONS: 34 C.F.R. § 300.30

§ 300.30 Parent.

- (a) Parent means
 - (1) A biological or adoptive parent of a child;
- (2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;
- (3) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
- (4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or
- (5) A surrogate parent who has been appointed in accordance with § 300.519 or section 639(a)(5) of the Act.
- **(b)** (1) Except as provided in paragraph (b)(2) of this section, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of this section to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.
- (2) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (4) of this section to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent" for purposes of this section.